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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,572

05/05/2006

Danny Deroo

DERO3002/JEK

1833

23364 7590 08/20/2010

BACON & THOMAS, PLLC

625 SLATERS LANE

FOURTH FLOOR

ALEXANDRIA, VA 22314-1176

EXAMINER

KOSTAK, VICTOR R

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

08/20/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,572	<b>Applicant(s)</b> DEROO ET AL.	
	<b>Examiner</b> Victor Kostak	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28 and 30-38 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 28, 30 and 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Daly et al. (5,754,222), cited by applicant.

Daly discloses a method carried out by a system that tests a display 14 (Fig. 1) that comprises a generating a series of test patterns (e.g. col. 4 lines 53-55) each at a different luminance (e.g. col. 8 lines 22-24) or color (e.g. col. 15 lines 53-56) with a predetermined minimum difference (by default, zero, and by necessity some non-zero amount to make evident a visible difference). The patterns are unpredictable to the user (step 26 in Fig. 2, step 40 in Fig. 4, col. 3 lines 6-9), and a test evaluator is included to judge the user's response to the selection of patterns (col. 3 lines 10-11; col. 4 lines 58-62), and the test generator displays plural candidate patterns along with respective test patterns for the user to make the selection (e.g. Figs. 3, 5, 6, 11), thereby meeting claims 28 and 37.

As for claim 30, the minimum difference is set by the computer shown in Fig. 1 (see also col. 8 lines 21-24).

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As for claim 33, the test pattern luminance covers a range of levels that differ from the background (col. 8 lines 21-29).

Regarding claim 34, the system chooses different selections for subsequent tests, all the levels being tested (including color testing: e.g. col. 15 line 53 – col. 16 line 12).

As for claim 35, calibration is inherent since the testing is done to identify parameter adjustments for the display.

As for claim 36, the system of Daly naturally includes a display, CRT 14.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daly et al.

It would have been obvious to one of ordinary skill in the art to send the test results to a remote location for the clear purpose of informing others of the results that are not at the same testing site. Such can be done, so suggested by the computer set-up, by storing the results on a removable storage device, or through a Web connection, which was well known at the time of filing.

Considering claim 32, since the testing is to determine the display characteristics of the display type, it would have been obvious and would make sense to send the test results to a station that uses the same display type for the purpose of applying the calibration data to the

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same display (which would not need to be tested since testing on that device has already been done).

4. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daly et al. in view of Schulze-Ganzlin ("S-G", 2001/0048733), also cited by applicant.

Daly says that his display can be used in various applications but points out that it can be used in any general image exchange, including calibrating images for scientific visualization (col. 1 lines 18-21).

In view of this express allowance, it would therefore have been obvious to one of ordinary skill in the art to apply his system in the medical field, such as that disclosed by S-G, who also checks his image display system but in the medical field, wherein the patterns would accordingly be marked or indicated for medical imagery.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Claim 29 appears allowable over the prior art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Kostak whose telephone number is (571)272-7348. The examiner can normally be reached on 6:00 am - 3:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**Or faxed to:**

**(571) 273-8300**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is (703) 308-HELP.

/Victor R. Kostak/  
Primary Examiner  
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VRK

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